



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

March 24, 2022

Hon. Paul G. Gardephe
United States District Court
Southern District of New York
40 Foley Square
New York, NY, 10007

Re: United States v. De Los Santos, 21 Cr. 130 (PGG)

Dear Judge Gardephe:

The Government writes with respect to the above-captioned case, which is currently scheduled for trial beginning on April 4, 2022. The Government and counsel for defendant Johnny De Los Santos respectfully request that the Court adjourn the trial *sin die*.

As the Court is aware, the defendant was scheduled to appear for a change-of-plea hearing on March 18, 2022. Two nights before that hearing, on March 16, the defendant did not return to his apartment for his scheduled curfew and broke contact with his pretrial services officer. The defendant then failed to appear for the March 18 change-of-plea hearing, and this Court issued a warrant for his arrest. Neither the Government, nor the defendant's attorney, have located or communicated with the defendant since the arrest warrant issued. The Government is continuing to investigate the defendant's whereabouts, but the parties believe it is unlikely the defendant will be located before trial is scheduled to commence.

The parties respectfully submit that an adjournment is appropriate. Trial cannot begin without the defendant present. *See* Fed. R. Crim. P. 43; *Crosby v. United States*, 506 U.S. 255, 256 (1993) (holding that Rule 43 does not "permit[] the trial *in absentia* of a defendant who absconds prior to trial and is absent at its beginning"). Adjourning the trial now will alleviate the burden on witnesses and potentially free the jury panel and courtroom for use in another trial. Once the defendant is apprehended, the Court can also take steps to ensure that the defendant does not benefit from the delay caused by his flight.

For the foregoing reasons, the parties respectfully request that the Court adjourn the April 4 trial date *sin die*.

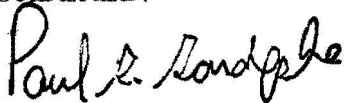
Very truly yours,

DAMIAN WILLIAMS
United States Attorney

by: /s/ Thomas Burnett
Thomas Burnett
Ashley Nicolas
Assistant United States Attorneys

Memo Endorsed: The pre-trial conference scheduled for March 28, 2022 and the trial scheduled for April 4, 2022 are adjourned sine die because the Defendant is a fugitive.
Dated: March 24, 2022

SO ORDERED.



Paul G. Gardephe
United States District Judge